



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/825,409	04/03/2001	Stephen Lupo	55381 (18102)	1638

26646 7590 01/10/2008
KENYON & KENYON LLP
ONE BROADWAY
NEW YORK, NY 10004

EXAMINER

AVELLINO, JOSEPH E

ART UNIT	PAPER NUMBER
----------	--------------

2143

MAIL DATE	DELIVERY MODE
-----------	---------------

01/10/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/825,409

Applicant(s)

LUPO ET AL.

Examiner

Joseph E. Avellino

Art Unit

2143

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 November 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 44-79 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 44-79 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. Claims 44-79 are presented for examination; claims 44, 49, 53, and 69 independent. The Office acknowledges the cancellation of claims 1-43.

Claim Rejections - 35 USC § 103

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 44-69 are rejected under 35 U.S.C. 103(a) as being unpatentable over Link et al. (USPN 6,289,514) (hereinafter Link) in view of Gavan et al. (USPN 6,732,082) (hereinafter Gavan).

3. Referring to claim 44, Link discloses an interactive response processing system (e.g. abstract), comprising:

an interactive media subscriber network receiving response requests from a plurality of access devices associated with subscribers (i.e. cable distribution network) (Figures 1A-B);

a communication message server operably connected to the subscriber network that receives a plurality of response requests (headend 301) (Figure 1B);

a collector connected to the message server comprising:

a communication handler (i.e. STB event dispatcher) (Figures 4A-B);

a plurality of event products (i.e. processes) each corresponding to at least one of interactive event application, or a portion of events, or a collection of individual events (i.e. pass messages to the appropriate process) (col. 8, line 65 to col. 9, line 14);

an interactive response management system (col. 9, lines 15-51);

a master journal file (i.e. database) (col. 9, lines 31-35);

a gateway messenger (i.e. router) (col. 9, lines 31-51);

a communication handler configured to collect the response requests and route them to the corresponding event products (col. 8, line 65 to col. 9, line 14);

each of the event products collecting, processing, and storing information related to a respective event (i.e. each of the processes described in Figure 4A receives the message, processes the message, and stores respective information with respect to the particular event) and logging at least a portion of the event in the master journal file (i.e. when a message is received, it writes it to the database) (Figures 4A, 5; col. 8, line 65 to col. 9, line 35); and

an aggregator configured to receive the requests and aggregate the collected responses corresponding to each of the event products (i.e. regardless of what process receives the message, the message is also routed to the event aggregator) (col. 9, line 39, to col. 10, line 25).

Link does not explicitly state that the collector collects the interactive outputs entirely in a flat file and the message server receiving the requests in a plurality of formats and normalizing them into a single format. In analogous art, Gavan discloses another network event collection mechanism which discloses collecting the events in a

flat file (col. 2, line 62 to col. 3, line 3), and normalizing the requests into a single readable format (col. 3, lines 13-21). It would have been obvious to one of ordinary skill in the art to replace the event dispatcher database queue of Link with the flat-file database described in Gavan in order to realize the benefits of Gavan, namely the ability to provide a table of values for a database without the relational aspects, thereby reducing overhead processing commonly associated with relational databases.

Furthermore Gavan modifies a similar event monitoring system with an event normalizer, which would provide sufficient motivation to modify the event system of Link with an event normalizer to realize the benefits of Gavan in the system of Link, namely the ability to receive events from a plurality of disparate devices and act upon them in a similar manner (col. 3, lines 13-21).

4. Referring to claim 45, Link discloses each of the event products processes and logs a portion of the request corresponding to the event (i.e. audience tracking sampler receives the event, processes the event to determine what event actually occurred, and then adds it to the sample database, and each of the processes acts in a similar fashion with respect to the events that they are in charge of) (col. 8, lines 55-65).

5. Referring to claim 46, Link discloses routing the requests in real-time (i.e. as soon as the message is received, it is routed to the appropriate process, the only delay perceived is the transmission and routing of the particular message) (Figure 4A).

6. Referring to claim 47, Link discloses the aggregator aggregates the messages in real-time (i.e. the messages are aggregated as they are received) (coll. 10, lines 12-42).
7. Referring to claim 48, Link discloses providing the aggregated response requests to a content producer (i.e. via reports) (col. 10, lines 51-65).
8. Claims 49-52 are rejected for similar reasons as stated above.
9. Referring to claim 53, Link-Gavan discloses the invention as described in claim 44. Link-Gavan does not explicitly disclose multiple collectors, however it has been held obvious to duplicate parts for multiple effects. See - St. Regis Paper Co. v. Bemis Co., 193 USPQ 8 (7th Cir. 1977). By this rationale, one of ordinary skill in the art would find it obvious to implement multiple collectors in order to handle an increased number of STB's in Link.
10. Referring to claim 54, Link-Gavan discloses the invention substantively as described in claim 53. Link-Gavan does not explicitly disclose that the collector can process at least 100,000 requests per second, however one of ordinary skill in the art would realize that the hardware needed to provide this throughput is well known and would have easily been available to any user. By this rationale, "Official Notice" is taken that both the concepts and advantages of providing hardware capable of processing 100,000 requests per second is well known and expected in the art. It would have been

obvious to one of ordinary skill in the art to modify the system of Link-Gavan to process 100,000 requests per second in order to benchmark the system of Link-Gavan in order to know when the system is at capacity and is not providing a bottleneck to the rest of the system.

11. Claims 55-62 are rejected for similar reasons as stated above.

12. Referring to claim 63, Link-Gavan discloses the invention as described above. Link further discloses generating reports online (Figure 1A, ref. 115), however does not explicitly disclose using a web browser to review the summary data, however web browsers are well known tools to view data over a network, including dynamically generated reports like those described in Link. By this rationale, "Official Notice" is taken that both the concepts and advantages of viewing reports using a web browser is well known and expected in the art. It would have been obvious to one of ordinary skill in the art to modify the system of Link-Gavan to review reports using a web browser, in order to efficiently provide a method to review the reports of Link over the network.

13. Claim 64 is rejected for similar reasons as stated above.

14. Referring to claims 65-68, these are statements of intended use for the interactive responses, and therefore do not hold any patentable weight. Furthermore

Link discloses the requests can include requests for entertainment, information retrieval, or commerce (col. 9, lines 45-51).

15. Claims 69-79 are rejected for similar reasons as stated above.

Conclusion

16. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

17. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph E. Avellino whose telephone number is (571) 272-3905. The examiner can normally be reached on Monday-Friday 7:00-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan J. Flynn can be reached on (571) 272-1915. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Joseph E. Avellino/
Joseph E. Avellino, Examiner
December 27, 2007